

APPEAL NO. 93412

Pursuant to the Texas Workers' Compensation Act, TEX. REV. CIV. STAT ANN., art. 8308-1.01 *et seq.* (Vernon Supp. 1993) (1989 Act), a contested case hearing was held on April 6, 1993, in (city), Texas, (hearing officer) residing as hearing officer. He determined that the claimant's injuries extended to and affected his left hand, elbow, shoulder, and neck and that he had a 24% whole body impairment rating as assessed by the designated doctor. Appellant (carrier) appeals only the impairment rating urging that the great weight of the medical evidence is contrary to the designated doctor's opinion and the hearing officer's finding is against the great weight and preponderance of the evidence. A response showing a mailing date of June 18, 1993, is not considered timely inasmuch as the carrier has provided a return receipt showing receipt of the request for review by the respondent (claimant) on June 1, 1993. Article 8308-6.41(a).

DECISION

Finding the evidence sufficient to support the finding and conclusion of the hearing officer on the issue of whole body impairment, the decision is affirmed.

There were impairment ratings rendered by three doctors in this case: a doctor who became the claimant's treating doctor, the Commission designated doctor and the carrier requested doctor. Their ratings were, respectively, 21% and 24%, while the carrier's doctor gave a rating of three percent. The parties agreed that maximum medical improvement (MMI) was reached on December 2, 1992. There was no dispute that the claimant was injured on (date of injury), when tongs on a drilling rig broke loose, struck his hand and knocked him back several steps. The claimant testified that "it burst the palm of my hand" and that someone stated you could see daylight through it. He was immediately taken to an emergency room where the hand was sutured both internally and externally. Although he did not mention any problems with his arm, elbow, neck or shoulder at that time, he did to a doctor he saw two weeks later, and that the injuries extended to those extremities is not an issue before us. In any event the claimant was seen by a carrier requested doctor on two occasions, and his reports detail the basis for his opinion and the reason he does not agree with the higher impairment ratings of the other doctors. A report of the treating doctor sets forth the basis for his evaluation and assessment. Since there was disagreement between the parties as to the rating of the treating doctor and the carrier's doctor, a designated doctor was appointed by the Commission. His report sets forth the basis for the opinion and gives specific body part ratings. With regard to the evaluation of the carrier's doctor, the claimant testified that he only gave him a very cursory exam and only considered his hand problem.

Based upon this evidence, the hearing officer accorded presumptive weight to the report of the designated doctor and awarded a 24% whole body impairment rating. Under the circumstances, and particularly where there is other medical evidence supportive of the determination reflected by the designated doctor and both are in considerable disparity with that of the carrier's doctor, we can not say that the "great weight of the other medical

evidence is to the contrary" to the designated doctor's report. Article 8308-4.26(g): Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. Nor do we find persuasive the suggestion by the carrier that because one doctor is a specialist and another is a general practitioner, that the specialist is necessarily entitled to greater weight in assessing an impairment rating. Texas Workers' Compensation Commission Appeal No. 93062, decided March 1, 1993. Indeed, similarly qualified specialists have been known to come up with wide disparity impairment ratings. See Texas Workers' Compensation Commission Appeal No. 92561, decided December 4, 1992.

Finding evidence in the record sufficient to support the finding and conclusion of the hearing officer on the issue of whole body impairment rating, we affirm the decision.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Gary L. Kilgore
Appeals Judge